

PUBLIC TRANSPORTATION SECURITY ASSISTANCE ACT
OF 2006

SEPTEMBER 15, 2006.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5808]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 5808) to authorize the Secretary of
Transportation to make grants to public transportation agencies
and over-the-road bus operators to improve security, and for other
purposes, having considered the same, report favorably thereon
with an amendment and recommend that the bill as amended do
pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Transportation Security Assistance Act of
2006”.

TITLE I—PUBLIC TRANSPORTATION SECURITY

SEC. 101. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) throughout the world, public transportation systems have been a primary
target of terrorist attacks, causing countless deaths and injuries;

(2) 5,800 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each
work day;

(4) safe and secure public transportation systems are essential to the Nation’s
economy and for significant national and international public events;

(5) the Federal Transit Administration has invested \$84,500,000,000 since
1992 for construction and improvements to the Nation’s public transportation
systems;

(6) the Federal Government appropriately invested \$19,600,000,000 in fiscal years 2002 through 2006 to protect the Nation's aviation system and its 2,000,000 daily passengers;

(7) the Federal Government invested \$380,000,000 in fiscal years 2003 through 2006 for grants to protect public transportation systems in the United States;

(8) the Federal Government has invested \$9.00 in aviation security improvements per passenger, but only \$0.01 in public transportation security improvements per passenger;

(9) the Government Accountability Office, the Mineta International Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and other experts have reported an urgent need for significant investment in transit security improvements;

(10) Federal financial assistance for transit security improvements should be separate from and supplementary to funding for longstanding Federal programs for investment in public transportation infrastructure;

(11) the final report of the National Commission on Terrorist Attacks Upon the United States (also known as the "9/11 Commission") found that the Federal Government should—

(A) identify and evaluate the transportation assets that need to be protected, set risk-based priorities for defending them, and select the most practical and cost-effective ways of doing so;

(B) develop a plan, a budget, and funding to implement the effort; and

(C) assign roles and missions to the relevant authorities (Federal, State, regional, and local) and to private stakeholders;

(12) the final report of the 9/11 Commission also found that homeland security assistance should be based strictly on an assessment of risks and vulnerabilities; and

(13) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation's public transportation systems.

(b) **PURPOSE.**—The purpose of this title is to provide grants to public transportation agencies and over-the-road bus operators to improve security in a manner consistent with the recommendations of the 9/11 Commission described in subsections (a)(11) and (a)(12).

SEC. 102. DEFINITIONS.

In this title, the following definitions apply:

(1) **PUBLIC TRANSPORTATION.**—The term "public transportation" has the meaning given the term in section 5302(a) of title 49, United States Code.

(2) **PUBLIC TRANSPORTATION SECURITY ASSESSMENT.**—The term "public transportation security assessment" means a risk assessment (including a criticality or vulnerability assessment) of a public transportation system conducted pursuant to the annex executed under section 3028(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 5321 note; 119 Stat. 1624).

(3) **SECRETARY.**—The term "Secretary" means the Secretary of Transportation, except as otherwise specifically provided.

SEC. 103. COMPONENTS OF SECURITY ASSESSMENTS AND PRIORITIZED PLANS.

(a) **SECURITY ASSESSMENTS.**—The Secretary shall request that the Secretary of Homeland Security take necessary actions to ensure that the public transportation security assessment of each public transportation system identifies—

(1) the critical assets of the public transportation system;

(2) threats to those assets;

(3) security weaknesses in the public transportation system and its assets;

(4) redundant and backup systems required to ensure the continued operation of critical elements of the public transportation system in the event of an attack or other incident; and

(5) the extent to which public transportation employees, including bus and rail operators, mechanics, customer service personnel, maintenance employees, transit police, and security personnel, have received training in security awareness and public transportation system emergency response procedures.

(b) **PRIORITIZED PLANS.**—A public transportation agency that has received an assessment described in subsection (a) shall develop, in consultation with the Secretary of Homeland Security, a prioritized plan of needed capital and operational security improvements based on the results of the assessment.

SEC. 104. SECURITY ASSISTANCE GRANTS.

(a) **CAPITAL SECURITY ASSISTANCE PROGRAM.**—

(1) IN GENERAL.—The Secretary shall make grants directly to eligible public transportation agencies for capital security improvements described in paragraph (2).

(2) ALLOWABLE USE OF FUNDS.—Grant funds received under paragraph (1) shall be used for—

- (A) tunnel protection systems;
- (B) perimeter protection systems;
- (C) redundant critical operations control systems;
- (D) chemical, biological, radiological, or explosive detection systems;
- (E) surveillance equipment;
- (F) inspection technology;
- (G) communications equipment, including mobile service equipment to provide access to 911 emergency services in an underground fixed guideway system;
- (H) emergency response equipment;
- (I) fire suppression and decontamination equipment;
- (J) global positioning or automated vehicle locator type system equipment;
- (K) evacuation improvements;
- (L) security training for transit employees, including bus and rail operators, mechanics, customer service employees, maintenance employees, transit police, and security personnel;
- (M) live or simulated drills; and
- (N) other capital security improvements.

(3) GOVERNMENT'S SHARE.—A grant for a capital security improvement project under this subsection shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall make grants directly to eligible public transportation agencies for operational security improvements described in paragraph (2).

(2) ALLOWABLE USE OF FUNDS.—Grant funds received under paragraph (1) shall be used for—

- (A) public awareness campaigns for enhanced public transportation security;
- (B) canine patrols for chemical, biological, or explosives detection;
- (C) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under subsection (e); and
- (D) other appropriate security improvements identified under subsection (e), including hiring additional security personnel determined necessary under subsection (e), but excluding routine, ongoing personnel costs.

(3) GOVERNMENT'S SHARE.—A grant for an operating security improvement project under this subsection may not exceed 50 percent of the net project cost of the project.

(c) ELIGIBILITY.—A public transportation agency shall be eligible for a grant under this section if the agency has received or is undergoing a public transportation security assessment.

(d) ALLOCATIONS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Homeland Security, shall allocate grant funds under this section based on the results of public transportation security assessments described in section 103(a) and in a manner that prioritizes the award of grant funds each fiscal year based on risk, consequences, vulnerability, and threat.

(2) RESPONSE TO URGENT THREATS.—After providing written notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Secretary may adjust grant allocations under this subsection if the Secretary determines that the adjustment is necessary to respond to an urgent threat or other significant factors.

(e) SECURITY IMPROVEMENT PRIORITIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Homeland Security, shall establish security improvement priorities for each public transportation agency receiving a public transportation security assessment.

(2) CONSULTATION; PRIORITIZED PLAN.—The Secretary shall establish priorities under paragraph (1)—

- (A) in consultation with the management and employee representatives of the public transportation agency; and

(B) in a manner that is consistent with the system's prioritized plan of needed capital and operational security improvements described in section 103(b).

(3) **APPLICABILITY.**—Priorities established under paragraph (1) shall apply to funds provided to a public transportation agency under this section.

(f) **TRANSIT AGENCY RESPONSIBILITIES.**—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this section; and

(3) report annually to the Department of Transportation on the use of grant funds received under this section.

(g) **GRANT REQUIREMENTS.**—Except as otherwise specifically provided in this title, a grant provided under this section shall be subject to the terms and conditions applicable to grants made under section 5307 of title 49, United States Code, and to such other terms and conditions as are determined by the Secretary.

SEC. 105. INTELLIGENCE SHARING.

(a) **INTELLIGENCE SHARING.**—The Secretary shall request that the Secretary of Homeland Security provide appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) **INFORMATION SHARING ANALYSIS CENTER.**—

(1) **ESTABLISHMENT.**—The Secretary shall fund the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the "ISAC") established pursuant to Presidential Directive 63 to protect critical infrastructure.

(2) **PUBLIC TRANSPORTATION AGENCY PARTICIPATION.**—The Secretary—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge any public transportation agency a fee for participation in the ISAC.

SEC. 106. REPORTING REQUIREMENT.

(a) **IN GENERAL.**—Not later than September 30, 2007, the Secretary, in consultation with the Secretary of Homeland Security, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that describes the implementation of sections 103 through 105. The Secretary may submit the report in classified and unclassified forms.

(b) **CONTENTS.**—The report shall include—

(1) a description of the state of public transportation security in the United States; and

(2) a description of actions taken by Federal, State, regional, and local governments and private stakeholders to address threats to, and security weaknesses in, the public transportation system and its assets.

SEC. 107. PUBLIC TRANSPORTATION EMPLOYEE SECURITY TRAINING PROGRAM.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Homeland Security, appropriate law enforcement, security, and terrorism experts, representatives of public transportation agencies, and representatives of public transportation employees, shall develop and issue guidelines for a public transportation employee security training program to prepare public transportation employees for potential threat conditions.

(b) **PUBLIC TRANSPORTATION AGENCY PROGRAMS.**—

(1) **IN GENERAL.**—Not later than 90 days after the date on which Secretary issues guidance under subsection (a) in final form, each public transportation agency that has received or is undergoing a public transportation security assessment shall develop an employee training program in accordance with such guidance.

(2) **REVIEW AND APPROVAL.**—Each public transportation agency referred to in paragraph (1) shall submit its employee training program to the Secretary for review and approval or amendment.

(3) **IMPLEMENTATION.**—Not later than one year after the date on which the Secretary approves an employee training program of a public transportation agency under paragraph (2), the agency shall complete employee training in accordance with such program with respect to the employees of the agency identified in the agency's public transportation security assessment. Other public

transportation agency employees may also be trained under the agency's employee training program.

(c) **REPORTING.**—As part of the Secretary's report to Congress under section 106, the Secretary shall include an analysis of the extent to which public transportation agencies are successfully carrying out the employee training programs described in this section.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) **CAPITAL SECURITY ASSISTANCE PROGRAM.**—There is authorized to be appropriated to carry out section 104(a)—

- (1) \$775,000,000 for fiscal year 2007;
- (2) \$825,000,000 for fiscal year 2008; and
- (3) \$880,000,000 for fiscal year 2009.

(b) **OPERATIONAL SECURITY ASSISTANCE PROGRAM.**—There is authorized to be appropriated to carry out section 104(b)—

- (1) \$400,000,000 for fiscal year 2007;
- (2) \$300,000,000 for fiscal year 2008; and
- (3) \$200,000,000 for fiscal year 2009.

(c) **INFORMATION SHARING AND ANALYSIS CENTER.**—There is authorized to be appropriated to carry out section 105(b) \$1,000,000 for each of fiscal years 2007 through 2009.

(d) **PERIOD OF AVAILABILITY.**—Sums appropriated pursuant to this section shall remain available until expended.

TITLE II—OVER-THE-ROAD BUS SECURITY ASSISTANCE

SEC. 201. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) **IN GENERAL.**—The Secretary of Transportation, acting through the Administrator of the Federal Motor Carrier Safety Administration, shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

- (1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;
- (2) protecting or isolating the driver;
- (3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;
- (4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;
- (5) hiring and training security officers;
- (6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;
- (7) creating a program for employee identification or background investigation;
- (8) establishing an emergency communications system linked to law enforcement and emergency personnel; and
- (9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) **FEDERAL SHARE.**—The Federal share of the cost for which any grant is made under this section shall be 80 percent.

(c) **GRANT REQUIREMENTS.**—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(d) **REPORT ON INDUSTRY PRIORITIES.**—

(1) **STUDY.**—The Administrator of the Federal Motor Carrier Safety Administration shall conduct a study of—

- (A) the critical assets and systems of the nationwide over-the-road bus industry;
- (B) security threats to the assets and systems;
- (C) security weaknesses in the assets and systems; and
- (D) redundant and backup systems required to ensure the continued operation of critical elements of the assets and systems in the event of an attack or other incident.

(2) CONSULTATION.—In conducting the study, the Administrator shall consult with representatives of private over-the-road bus operators and the employees of such operators.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Secretary of Transportation and the Secretary of Homeland Security a report, based on the results of the study, detailing the critical assets, threats, and weaknesses in the over-the-road bus industry. The Administrator shall update the report on an annual basis.

(e) ALLOCATION OF GRANTS.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish priorities for the allocation of grants under this section based on the report required by subsection (d)(3) and shall make grants under this section in accordance with those priorities.

SEC. 202. PLAN REQUIREMENT.

(a) IN GENERAL.—The Secretary of Transportation may not make a grant under section 201 to a private operator of over-the-road buses until the operator has first submitted to the Secretary an application containing—

(1) a plan for making security improvements described in section 201 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(b) COORDINATION.—To the extent that an application for a grant submitted under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(c) CONSULTATION WITH DHS.—In approving plans under subsection (a)(1), the Secretary may consult with the Secretary of Homeland Security.

SEC. 203. OVER-THE-ROAD BUS DEFINED.

In this title, the term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 204. BUS SECURITY ASSESSMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a preliminary report in accordance with the requirements of this section.

(b) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(1) an assessment of the over-the-road bus security grant program;

(2) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(3) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(4) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(5) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(6) an assessment of industry best practices to enhance security.

(c) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

SEC. 205. FUNDING.

There is authorized to be appropriated to the Secretary of Transportation to carry out this title \$50,000,000 for each of fiscal years 2007 through 2009. Such sums shall remain available until expended.

PURPOSE OF THE LEGISLATION

H.R. 5808 authorizes the Secretary of Transportation to award grants to public transportation agencies and over-the-road bus operators to improve security in a manner consistent with the rec-

ommendations of the Final Report of the National Commission on Terrorist Attacks Upon the United States (the “9/11 Commission”).

BACKGROUND AND NEED FOR THE LEGISLATION

Throughout the world, public transportation systems have been primary targets of terrorist attacks, causing thousands of deaths and injuries. Transit systems have open access with frequent stops and transfer points and are thus difficult to protect. They also serve high concentrations of people in relatively crowded quarters, an environment with a high probability of death or injury.

On July 11, 2006, eight bombs exploded in a coordinated attack on commuter rail trains in Mumbai, India, killing more than 200 people. On July 7, 2005, three bombs on the London Underground subway system and one bomb on a London city bus exploded in a coordinated terrorist attack during morning rush hour, killing 52 people. On March 11, 2004, four separate bombs detonated on three commuter trains traveling toward Madrid, Spain, killing 198 people. From 1991 to 2001, 42 percent of all terrorist incidents were carried out on rail systems or buses. These attacks are not just something that happens in other countries. On July 7, 2006, U.S. authorities announced the arrest of a man in Beirut who was planning, with other conspirators, to mount an assault on the New Jersey-New York PATH subway tunnels under the Hudson River.

In the U.S., there are 650 public transportation agencies in urbanized areas that provide 9 billion transit trips annually. Every day, more than 14 million people use public transportation to get to and from work, as well as using transit to get to school, shop, visit medical facilities, or go out for an evening’s entertainment. By comparison, the U.S. aviation industry serves 2 million daily passengers; Amtrak serves only about 70,000 passengers each day. Despite the fact that so many people use transit, there has been very little federal investment in improving the security of America’s public transportation facilities and systems. Over five years (fiscal years 2002 through 2006), there was \$19.6 billion spent on aviation security, an average of \$9.00 per passenger. In fiscal years 2003 through 2006, only \$380 million has been provided by the Department of Homeland Security for transit security grants, an average of one cent per passenger.

Publicly owned and operated transit systems represent a sizeable investment of highway trust funds and federal, state, and local general revenues. Since 1992, the Federal Transit Administration (FTA) has provided \$84.5 billion in federal funds for construction and improvements to transit systems throughout the country. This critical infrastructure and the safety of the traveling public must be protected from deliberate harm to the greatest extent possible, whether the threat is from international terrorists or domestic sources.

The purpose of the bill is to authorize grants to transit agencies and bus operators to improve security in a manner consistent with the recommendations of the 9/11 Commission Report. Although the Report does not specifically address transit security issues, the chapter regarding how to protect against and prepare for terrorist attacks makes four recommendations that are directly applicable to improving the security of our nation’s public transportation systems:

1. Identify and evaluate transportation assets that need to be protected, and set risk-based priorities for defending them.
2. Develop a plan, budget, and funding to implement this effort.
3. Assign roles and missions to relevant Federal, State, regional, local and private stakeholders.
4. Provide transportation security assistance based strictly on assessments of risk and vulnerability.

The Homeland Security Act of 2002 (P.L. 107–296) created the Department of Homeland Security (DHS) to secure the United States from terrorist threats. A number of existing government agencies were transferred to and reorganized under a single new department. In the intervening years since DHS was created, there were questions raised about the respective responsibilities of DHS and the Department of Transportation (DOT) regarding transportation facilities and systems security. To improve coordination on transportation security matters, including transit security, DHS and DOT signed a memorandum of understanding (MOU) in September 2004. The two departments also signed a transit security annex to the MOU in September 2005 that delineates the specific security-related roles, responsibilities, resources, and commitments for transit issues.

H.R. 5808 reflects the provisions of the transit annex to the DHS/DOT memorandum of understanding and does not disturb the current relationship between the departments. Under the transit annex, all programs and services that are related to public transportation security, including risk assessments, grants, training, exercises, and technical assistance, are to be coordinated between DOT and DHS (section 4 of the “Annex to the Memorandum of Understanding Between the Department of Homeland Security and the Department of Transportation on Roles and Responsibilities Concerning Public Transportation Security”, executed September 8, 2005). DHS is named as the lead agency responsible for conducting risk assessments of transit systems. However, DHS commits to share the results of transit system risk assessments with the FTA’s Director of Safety and Security (section 6, *Ibid*). The transit annex does not directly address security grant-making authority. The transit annex also specifies that DHS is responsible for communicating intelligence, including threats, warnings, and changes in threat conditions, on a timely basis to public transportation stakeholders. The FTA may supplement these DHS communications efforts (section 8, *Ibid*).

The Committee on Transportation and Infrastructure held two hearings on public transportation security in 2004 and 2006. Witnesses from DOT and DHS participated, as well as industry stakeholders and public transportation employee representatives. The most common complaint at both these hearings was that the Department of Homeland Security’s transit grant program is inconsistently administered. For each of the four fiscal years that transit security grant funds have been appropriated, a different office within DHS has administered the grants under a different set of requirements. Public transportation agencies and other stakeholders strongly support a DOT-administered public transportation security grants program. H.R. 5808 authorizes grants to be administered by the Secretary of Transportation, working within the es-

tablished framework of the DHS/DOT memorandum of understanding and the transit annex.

H.R. 5808 requires each transit agency to develop a prioritized plan of needed capital and operational security improvements based on the results of its security assessment. The Secretary of Transportation, in consultation with DHS, will allocate grant funding among the transit agencies that have received or are undergoing security assessments, based on the results of the assessments and in a manner that prioritizes grants based on risk, consequences, vulnerability, and threat. The Secretary of Transportation must also, in consultation with DHS, establish individual security improvement priorities for each public transportation system consistent with the system's prioritized plan of needed security improvements.

The over-the-road bus industry transports 773 million passengers annually. These intercity buses are as vulnerable to terrorist attack as public transportation systems, for many of the same reasons. There has been a very small amount of federal funding appropriated for bus security grants, \$55 million (\$15 million in fiscal year 2002 and \$10 million for each of fiscal years 2003 through 2006). However, Congress has not yet authorized a security grants program for over-the-road buses, and a risk-based legislative framework is needed to ensure that funds provided for intercity bus security needs are allocated to projects that will best improve security. In the over-the-road bus security grants, allocation of grant funds is made by the Federal Motor Carrier Safety Administration, in consultation with DHS. Priorities for grant allocation are established based on the critical assets and systems of the nation's over-the-road bus industry, security threats to those assets, and weaknesses in the system.

For fiscal years 2007 through 2009, H.R. 5808 authorizes \$2,480,000,000 for capital security grants and \$900,000,000 for operating security grants to public transportation providers. These funds are authorized out of non-defense discretionary general funds and are subject to appropriations. The bill also authorizes, over the same three-year period, \$150,000,000 for grants to over-the-road bus operators for security improvements to their operations. These grants are to be allocated based on risk and vulnerability, consistent with the recommendations of the 9/11 Commission Report.

SUMMARY OF THE LEGISLATION

Section 1. Short title

This section states the bill short title as the "Public Transportation Security Assistance Act of 2006."

TITLE I—PUBLIC TRANSPORTATION SECURITY

Section 101. Findings; purpose

This section lists the findings of Congress regarding: the need for improvements to public transportation security; the inequity of federal financial assistance for aviation security improvements versus assistance for public transportation security; the need to make security funding supplemental to and separate from funding for capacity-based infrastructure improvements; and the activities that the Government should undertake in response to the findings of

the 9/11 Commission Report. This section states that the purpose of the Act is to authorize grants to public transportation agencies and over-the-road bus operators to improve security in a manner consistent with the recommendations of the 9/11 Commission Report.

Section 102. Definitions

This section defines public transportation as having the same meaning such term is given in section 5302(a) of title 49, United States Code, as transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, sightseeing, or intercity bus transportation. Intercity passenger rail transportation provided by Amtrak or a successor agency is also not considered to be public transportation. The term “public transportation security assessment” is defined as a risk assessment of a public transportation system conducted pursuant to the transit annex to the DHS/DOT memorandum of understanding. The Secretary is defined as the Secretary of Transportation, except as otherwise specifically provided.

Section 103. Components of security assessments and prioritized plans

Under this section, the Secretary of Transportation is directed to request that the Secretary of Homeland Security include certain elements in the DHS security assessments of public transportation systems. These elements are: critical assets of the public transportation system; threats to those assets; security weaknesses in the public transportation system and its assets; redundant and backup systems that ensure continued operations; and the extent to which public transportation employees have received adequate security awareness and emergency response training. The FTA has identified employee training as one of the highest priority security action items for public transportation agencies.

The act of requesting that DHS security assessments include certain information is consistent with the relationship between DHS and DOT that is established in section 4 of the transit annex to the DHS/DOT memorandum of understanding, which states in part that, “DOT and DHS . . . will coordinate their programs and services (including risk assessments . . .) in order to better assist transit agencies in prioritizing and addressing their current and emerging security-related needs.” No new requirement is being placed on DHS, because DOT has been directed to put forward these suggested elements as a request, made in the context of a cooperative relationship.

This section also requires public transportation agencies that have received a security assessment from DHS to develop, in consultation with DHS, a prioritized plan of needed capital and operational security improvements specifically for the transit system, based on the results of the security assessment.

Section 104. Security assistance grants

This section authorizes two kinds of security assistance grants for public transportation agencies: capital and operating. Capital security grants require a 20 percent local or state match. They are

available for a number of activities, including tunnel and perimeter protection, redundant and backup control systems, detection systems (for chemical, biological, radiological, or explosive weapons), surveillance equipment, inspection technologies, communications equipment, including mobile phone service equipment to provide access to 911 emergency services in subway stations and tunnels, emergency response equipment; fire suppression and decontamination equipment, vehicle locator equipment, evacuation improvements, security training for transit employees, live or simulated drills, and other capital security improvements. Operational security grants require a 50 percent local or state match. They are available for public awareness campaigns, canine patrols, overtime reimbursement for security personnel during significant national and international events, and other appropriate security improvements identified in the public transit agency's security assessment (which may include hiring additional security personnel determined necessary by such assessment), excluding routine and ongoing personnel costs.

Only public transportation systems that have received, or are undergoing, a DHS security assessment are eligible for security assistance grants. The process of allocating grant funds among eligible transit systems is to be performed by the Secretary of Transportation, in consultation with the Secretary of Homeland Security. Such allocation shall be made in a manner that prioritizes the award of grant funds based on risk, consequences, vulnerability, and threat, and shall be based individually on the results of each transit system's security assessment. Provision is made for adjusting grant allocations in response to urgent threats or other significant factors.

The Secretary of Transportation, in consultation with the Secretary of Homeland Security, is directed to establish security improvement priorities for each transit agency receiving a grant. These priorities are to be established in consultation with management and employee representatives of the transit agency and in a manner that is consistent with the prioritized plan of needed capital and operational security improvements that each eligible transit agency has developed.

Grants shall be made directly to transit agencies and are subject to the terms and conditions applicable to grants under the Urbanized Area Formula Grants program (section 5307 of title 49, United States Code). Transit agencies are required to have a security coordinator and a comprehensive plan for operating and maintaining equipment purchased under this section. Agencies that receive security grants must also report to DOT annually on the use of grant funds received under this section.

Section 105. Intelligence sharing

Under this section, the Secretary of Transportation is directed to request that the Secretary of Homeland Security provide appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States. The act of requesting that DHS provide such timely notification is consistent with section 8 of the transit annex to the DHS/DOT memorandum of understanding, which states in part that, "DHS is responsible for communicating intelligence, including threats and

warnings . . . on a timely basis to public transportation stakeholders.” No new requirement is being placed on DHS by this language, because DOT has been directed to request this action, in the context of a cooperative relationship.

Pursuant to Presidential Directive 63, “Protecting America’s Critical Infrastructures” (May 22, 1998), intelligence sharing and analysis centers have been established in different sectors of U.S. industry, such as telecommunications, banking and finance, energy, essential government services, and transportation. These centers manage intelligence information flow regarding potential terrorist threats and disseminate that information to the appropriate stakeholders. In 2002 and 2003, FTA funded the intelligence sharing and analysis center (ISAC) for transit, which is managed under contract by the American Public Transportation Association. This section provides that the Department of Transportation shall fund the ISAC, and directs the Secretary to require transit agencies determined to be at significant risk of attack to participate in the ISAC and to encourage all other transit agencies to participate as well. No fee may be charged to a public transit agency for participation in the ISAC.

Section 106. Reporting requirement

In this section, the Secretary of Transportation is directed to submit a report by September 30, 2007 on the implementation of sections 103 through 105. Because some of the information regarding public transportation agency security assessments may be sensitive, the Secretary is authorized to submit the report in both classified and unclassified forms. The report must include a description of the state of public transportation security in the United States and a description of actions that have been and are being taken by Federal, State, regional and local governments to address security threats and public transportation system security weaknesses.

Section 107. Public transportation employee security training program

This section establishes a public transportation employee security training program, to be developed by DOT in consultation with DHS, appropriate law enforcement, security, and terrorism experts, and representatives of public transportation agencies and their employees. This new training program must be released with appropriate guidance within 90 days of enactment of this Act. All public transit agencies that have received, or are undergoing, security assessments under section 103 must develop individual employee training programs in accordance with the DOT guidance within 90 days of such guidance being issued. The Secretary of Transportation must review and approve (or amend) the individual agencies’ training programs. Within one year of the date of the Secretary’s approval, each agency must complete training of the employees who were employed when the security assessment was performed, in accordance with the employee training program.

Section 108. Authorization of appropriations

This section lists the amounts authorized for the capital security assistance program, operational security assistance program, and the transit ISAC authorized in section 105 for fiscal years 2007,

2008 and 2009. Funds that are appropriated pursuant to this authorization shall remain available until expended.

TITLE II—OVER-THE-ROAD BUS SECURITY ASSISTANCE

Section 201. Emergency over-the-road bus security assistance

This section directs the Secretary of Transportation, acting through the Administrator of the Federal Motor Carrier Safety Administration (FMCSA), to establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations. Grants are eligible for: construction and modification of terminals, garages, and other facilities to improve security; protecting or isolating the bus driver; buying equipment that will help collect, store or exchange passenger manifests and provide informational links with government agencies; training employees; hiring and training security officers; installing surveillance equipment on buses and in bus facilities; creating programs for employee identification or background investigations; establishing emergency communications links to local law enforcement and emergency responders; and implementing passenger screening programs. The Federal share of these grants is 80 percent; 20 percent of the grant amount must be paid by the bus operator or a state or local funding source. Grants are subject to the terms and conditions of the Rural Transportation Accessibility Incentive Program under section 3038 of the Transportation Equity Act for the 21st Century (TEA 21).

The FMCSA Administrator is directed to conduct a study of industry security priorities, including an assessment of critical assets and systems of the nationwide over-the-road bus industry; security threats to those assets and systems; security weaknesses in those assets and systems; and redundant and backup systems required to ensure continued operations. The report on this study shall be submitted to the Secretaries of Transportation and of Homeland Security, and shall update the report on an annual basis. The allocation of grants by DOT, in consultation with DHS, shall be based on priorities identified in this report.

Section 202. Plan requirement

Over-the-road bus operators are required to submit to the Secretary of Transportation a plan for making security improvements authorized in section 201, and such plan must be approved by the Secretary before making a security improvement grant to an operator. When the Secretary approves security improvement plans for an over-the-road bus operator, he may consult with the Secretary of Homeland Security. In cases where terminals or facilities that are proposed for security improvements are owned and operated by a different entity, the applicant must demonstrate that such improvements have been coordinated with the entity that owns the facility.

Section 203. Over-the-road bus defined

This section defines an over-the-road bus as a bus characterized by an elevated passenger deck located over a baggage compartment. Although such buses are often operated by public transportation entities, especially for commuter bus services, the Committee

does not expect such public operators to be eligible for grants authorized under this title. Such public transportation agencies are eligible for grants under title I of this bill, if they are assessed as being at risk for terrorist attack.

Section 204. Bus security assessment

This section requires a preliminary report by the Secretary of Transportation to Congress not later than 180 days after enactment of this Act on the status of the over-the-road security grant program, which shall include an assessment of actions that have been taken to address security issues and whether additional actions are still needed, and assessments of: whether additional legislation is needed, what the economic impact of security improvements to the over-the-road bus fleet have on that industry, what research has been undertaken on over-the-road bus security and whether more is needed, and what are the best practices of the industry to enhance security.

Section 205. Funding

This section authorizes \$50 million a year for fiscal years 2007, 2008 and 2009 to be appropriated to carry out this title. Such sums shall remain available until expended.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

The Subcommittee on Highways, Transit and Pipelines held hearings on public transportation security on June 22, 2004 and on March 29, 2006. The hearings included witnesses from the Department of Transportation and the Department of Homeland Security, as well as other industry stakeholders (including the American Public Transportation Association and the American Bus Association).

The Committee on Transportation and Infrastructure has considered and reported similar security grants authorization bills twice before. In 2002, the Committee reported and the House of Representatives passed H.R. 3429, which authorized security grants for over-the-road buses (intercity and charter buses). The bill was not considered by the Senate before the end of the 107th Congress. In October 2004, the Committee reported H.R. 5082, which authorized both over-the-road bus and public transportation security grants. This bill was the basis for H.R. 5808. The legislative text was updated to reflect the provisions of the transit annex to the memorandum of understanding between DHS and DOT.

H.R. 5808 was introduced on July 17, 2006 by Representatives Young, Petri, Oberstar and DeFazio and was referred to the Committee on Transportation and Infrastructure. The Committee on Transportation and Infrastructure met in open markup session on July 19, 2006, and discharged the Subcommittee on Highways, Transit and Pipelines from consideration of the bill. A manager's amendment was offered by Subcommittee Chairman Petri, which added a new eligible expense for capital grants and clarified that the allocation of security grant funds among transit systems will be prioritized based on risk, consequences, vulnerability, and threat. H.R. 5808 was ordered favorably reported, as amended, and was approved by voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no rollcall votes in subcommittee or full committee consideration of H.R. 5808.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are for the Secretary of Transportation to award grants to public transportation agencies and over-the-road bus operators to improve security, in a manner consistent with the recommendations of the Final Report of the National Commission on Terrorist Attacks upon the United States (the 9/11 Commission Report).

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5808 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, August 17, 2006.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5808, the Public Transportation Security Assistance Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Gregory Waring.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 5808—Public Transportation Security Assistance Act of 2006

Summary: H.R. 5808 would authorize the Secretary of Transportation to provide grants to transit agencies to improve the security of transit systems and grants to operators of over-the-road buses to improve the security of buses and bus terminals. (Over-the-road buses are characterized by an elevated passenger deck above a baggage compartment.) The bill also would authorize the Secretary to cover the costs of the Information Sharing and Analysis Center (ISAC) for Public Transportation. For these activities, H.R. 5808 would authorize the appropriation of about \$3.5 billion over the 2007–2009 period. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 5808 would cost nearly \$3 billion over the 2007–2011 period and more than \$500 million after 2011. CBO estimates that enacting the legislation would not affect direct spending or revenues.

In addition to authorizing appropriations for grants and for the ISAC, the bill would require the Department of Transportation (DOT) to assess the security of over-the-road bus facilities, report to the Congress on the use of the grants for transit security, and issue guidelines for training transit employees to respond to threats. Assuming the appropriation of the necessary amounts, CBO estimates that implementing these provisions would cost about \$1 million each year over the 2007–2009 period.

H.R. 5808 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the cost imposed on public transit agencies would be small and would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation). The bill would authorize more than \$3 billion in grants over three years for which public transit agencies would be eligible to apply. This bill contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5808 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Capital Security Grants					
Authorization Level	775	825	880	0	0
Estimated Outlays	116	356	535	545	393
Operational Grants					
Authorization Level	400	300	200	0	0
Estimated Outlays	200	470	210	20	0
Bus Security Grants					
Authorization Level	50	50	50	0	0
Estimated Outlays	8	23	33	33	24
ISAC for Public Transportation					
Authorization Level	1	1	1	0	0
Estimated Outlays	1	1	1	0	0
Assessments, Reports, and Guidance					
Estimated Authorization Level	1	1	1	0	0
Estimated Outlays	1	1	1	0	0
Total Changes					
Estimated Authorization Level	1,227	1,177	1,132	0	0

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
Estimated Outlays	326	851	780	598	417

Note: ISAC = Information Sharing and Analysis Center.

Basis of estimate: H.R. 5808 would authorize the Secretary of Transportation to provide grants to transit agencies and operators of over-the-road buses for security-related activities. The bill also would authorize the Secretary to cover the costs of the ISAC for Public Transportation. Finally, the bill also would require the government to conduct security assessments, report on grant activities, and issue guidance for a security training program.

For this estimate, CBO assumes H.R. 5808 will be enacted near the start of fiscal year 2007 and that the authorized and estimated amounts will be appropriated for each year. Estimates of spending are based on information from DOT and historical spending patterns of similar programs.

Security grants

H.R. 5808 would authorize the appropriation of almost \$2.5 billion over the 2007–2009 period for grants to transit agencies for capital investments to improve the security of transit systems. The bill would authorize the appropriation of another \$900 million over the same period for grants to transit agencies for operational improvements to security such as training, conducting emergency drills, or public awareness campaigns. Finally, the bill would authorize the appropriation of \$150 million over the same period for grants to operators of over-the-road buses for improvements to the security of their buses and bus terminals. Assuming appropriation of the authorized amounts, CBO estimates these provisions would cost nearly \$3 billion over the 2007–2011 period and more than \$500 million after 2011.

ISAC for public transportation

The ISAC for Public Transportation distributes information to public transit agencies on security threats and helps transit agencies share security-related information. H.R. 5808 would authorize the appropriation of \$1 million for each year over the 2007–2009 period for the Secretary of Transportation to cover the costs of the ISAC. Assuming appropriation of the authorized amounts, CBO estimates that implementing this provision would cost \$3 million over the 2007–2009 period.

Assessments, reports, and guidance

H.R. 5808 would require DOT to assess the security of over-the-road bus facilities. The bill also would require the department to report to the Congress on the use of the grants for transit security. Finally, the bill would require the department to issue guidelines for training transit employees to respond to threat conditions. Assuming appropriation of the necessary amounts, CBO estimates that implementing these provisions would cost about \$1 million each year over the 2007–2009 period.

Estimated impact on State, local, and tribal Governments: H.R. 5808 contains an intergovernmental mandate as defined in UMRA because it would require certain public transportation agencies—as

determined by the Secretary of Homeland Security—to participate in the Information Sharing and Analysis Center for Public Transportation. The bill would authorize \$1 million for fiscal years 2007 through 2009 to support the ISAC, but public transit agencies might incur some administrative costs to participate. CBO estimates that such costs would be small and would be well below the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

Eligible public transit agencies also would benefit from more than \$3 billion in grants authorized by the bill to upgrade transit security. Any requirements associated with those grants would be conditions of receiving federal assistance.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On December 5, 2005, CBO transmitted a cost estimate for S. 2032, the Public Transportation Terrorism Prevention Act of 2005, as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on November 16, 2005. S. 2032 would authorize appropriations for grants to public transportation agencies for improvements to capital and operational security and would authorize grants for research to improve security. The bill did not provide a separate and specific authorization of appropriations for grants for bus security. CBO estimated that implementing S. 2032 would cost about \$2.8 billion over the 2006–2010 period and about \$700 million after 2010, assuming the appropriation of the necessary amounts.

Estimate prepared by: Federal Costs: Gregory Waring. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5808 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 5808 makes no changes in existing law.

